IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 5TH JULY 2007 / 14TH ASHADHA 1929

Bail Appl..No. 4058 of 2007()

(CRIME NO.231/07 OF SULTHAN BATHERY POLICE STATION)

: PETITIONER/ACCUSED NO.4

C.K.SUNIL LAL, S/O.KUTTAPPAN, CHEMBAN HOUSE, THOVARIMALA P.O., AMBUKUTTY, SULTHAN BATHERY.

BY ADV. SRI.VINOD VALLIKAPPAN

RESPONDENTS: STATE

STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR ADV.SRI.S.U.NAZER

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 05/07/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

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B.A.No. 4058 Of 2007

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Dated this the 5th day of July, 2007

ORDER

Application for anticipatory bail. Petitioner faces arrest in a crime registered, inter alia, under Section 307 IPC and under Section 5 of Explosive Substances Act.

2. The defacto complainant happens to be an active worker of the B.J.P. The petitioner and the co-accused are allegedly persons having affinity to CPM. There is bitter animosity and violent incidents between the two groups in the locality. The defacto complainant's house was attacked and bomb was hurled at the house on the night of 10.05.07. The defacto complainant could not identify the miscreants. But the defacto complainant, in the F.I.Statement, conveyed to the police that he suspects some persons, including the petitioner herein. That suspicion was based on an incident which had taken place the previous day and the petitioner, the named accused had threatened the defacto complainant. Investigation is in progress. Accused 1 and 2 have been arrested and one of them enlarged on bail also. The investigation has not made much headway. The petitioner apprehends arrrest as one of the suspected persons.

3. The learned counsel for the petitioner submits that the petitioner is absolutely innocent. Except an unjustified suspicion raised by the defacto complainant, there is no material which would justify the arrest and incarceration of the petitioner. In these circumstances, anticipatory bail may be granted to the petitioner, prays the learned counsel for the petitioner.

4. The learned Public Prosecutor opposes the application. The allegations are serious. Political animosity has prompted the miscreants to indulge in the alleged crimes. Strict view is liable to be taken. At the moment, there is absolutely no justification in the prayer to permit the petitioner to arm himself with an order of anticipatory bail. Such course would frustrate the requirement of expeditious and efficient investigation. The petitioner's involvement will have to be ascertained. For that purpose he will have to be questioned and arrested, if the Investigating Officer so feels, he submits. At the present stage, the petitioner may not be granted anticipatory bail, submits the learned Public Prosecutor.

5. Having considered all the relevant inputs, I find merit in the opposition by the learned Public Prosecutor and I am satisfied that this is not a fit case where directions under Section 438 Cr.P.C can or ought to be issued in favour of the petitioner. The petitioner must

co-operate with the Investigators. He must appear before the Investigating Officer and co-operate with the proper investigation. He can then seek regular bail in the normal and ordinary course. I have no reason to assume that the learned Magistrate would not consider the application for regular bail on merits, in accordance with law and expeditiously. Every court must do the same. In the result, this petition is dismissed. I may however, hasten to observe that if the petitioners appear before the learned Magistrate and apply for bail, the learned Magistrate must proceed to pass appropriate orders on merits, in accordance with law and expeditiously.

(R.BASANT, JUDGE)

sj

/TRUE COPY/

P.A.TO JUDGE